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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 9

MAILED: April 11, 1994

In re application of

Carol A. Westbrook

Serial No. 07/784,222

For: METHODS AND COMPOSITIONS FOR THE : Decision on Petition
DETECTION OF CHROMOSOMAL ABERRATIONS :

Applicants have filed a renewed petition for withdrawal of the holding of abandonment, dated January 28, 1994, which abandonment occurred due to applicants' apparent failure to properly respond to the sequence requirements set forth in the Notice of Informal Application issued by the Applications Branch of the PTO on April 15, 1992. Notification of the holding of abandonment was issued on March 10, 1993. Applicants had filed a first petition to withdraw the holding of abandonment on May 11, 1993 and, having not yet received a decision on the original petition, subsequently filed the instant petition. At the outset, the failure by the Office to promptly respond to the original petition, and any inconvenience caused to applicants thereby, is sincerely regretted.

Applicants argue that, believing the instant disclosure was devoid of recitation which would trigger a requirement for the filing of a sequence in computer readable form, contacted Examiner Lisa Bennett of Group 1800 regarding the issue. The examiner allegedly agreed that requirement to comply with the Sequence Rules was inappropriate in this case and apparently agreed to intercede with Applications Branch on applicants' behalf regarding the requirement. Applicants subsequently allegedly filed a paper with the Office on or about August 6, 1992, addressed to Applications Branch, requesting withdrawal of the requirement based upon the telephone conversations with the examiner.

It should be noted that: (1) the application papers are devoid of an official copy of the August 6, 1992 correspondence; (2) the copy of the August 6, 1992 correspondence attached to the petition, which was apparently allegedly sent to the PTO via facsimile transmission, does not include the facsimile receipt notification and (3) examiner Bennett has never been officially assigned as the examiner in charge of the application since it never was officially forwarded to the Group for examination

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purposes. It should be further noted that the application clearly includes sequence recitation; at page 37, line 31 to page 38, line 5 thereof, that would trigger a need to comply with the computer readable sequence requirements. Even if, for argument's sake, the examiner was correct in her alleged statement that compliance was not necessary, such a statement would not relieve applicants of the need to officially respond to the requirement issued by Applications Branch.

Since no proper response to the requirement was ever received by the Office, the application was properly abandoned by Applications Branch. Accordingly, the petition is denied. Applicants' recourse would be via the filing of a petition to revive the abandoned application, under the appropriate provision of 37 CFR 1.137, with the Office of the Assistant Commissioner for Patents.

PETITION DENIED



Barry S. Richman, Director
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